

## **REMARKS**

This Amendment responds to the non-final Office Action dated March 22, 2007. Applicants respectfully request reconsideration of the Examiner's rejections of Claims 11, 13-19, and 21-56. Applicants have cancelled Claims 29-51 and 54-56, rendering the rejections moot with respect to these claims. Applicants have added Claims 57-64. As such, Claims 11, 13-19, 21-28, 52, 53, and 57-64 are pending.

### **I. Interviews of May 3 and 4, 2007**

Applicants' attorneys appreciate the Examiner's time and consideration during the telephonic interviews of May 3 and 4, 2007. In a brief call the previous week, it had been established that the Examiner had not reviewed any of the Appendices A-X of the Declaration of Gary Meyer Under 37 C.F.R. § 1.132 ("Meyer Declaration"), as such Appendices had not been scanned by the Office. In addition, it was established that articles cited in the Office Action of March 22, 2007 are dated well after the claimed priority dates of the present application, and that Santana (U.S. Patent No. 6,924,620) is not a valid reference under 35 U.S.C. § 103(a) because 35 U.S.C. § 103(c) applies. Thus, the Office Action of March 22, 2007 was prepared on the basis of fundamentally incomplete information and a mistaken characterization of information as prior art.

During the interviews of May 3 and 4, 2007, the Examiner stated that he had succeeded in locating and considering the Appendices of the Meyer Declaration. The Examiner further stated that Claims 11, 13-19, 21-28, 52, and 53 are allowable. To expedite prosecution and allowance of the present application, Applicants have cancelled Claims 29-51 and 54-56, reserving the right to file a continuation as to the cancelled claims. The Examiner also stated that new claims reciting a battery pack whose lithium-based battery cells have a combined nominal

voltage "of at least substantially 28-volts" would be allowable. New Claims 57-64 are of such scope.

## **II. Conclusion**

In view of the foregoing, Applicants respectfully submit that claims 11, 13-19, 21-28, 52, 53, and 57-64 are allowable. The undersigned is available for telephone consultation at the below number.

Respectfully submitted,



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